

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**CONNECTICUT GENERAL LIFE  
INSURANCE COMPANY, et al.**

**Plaintiffs,**

**VS.**

**WINDHAVEN SURGICAL CENTER, LLC.**

**Defendant.**

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**Case No. 4:13CV726**

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

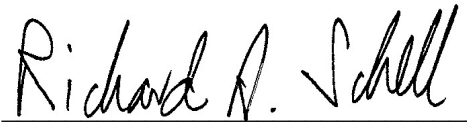
Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On August 5, 2014, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant Windhaven Surgical Center LLC's Motion to Dismiss (Dkt. 7) be GRANTED "as to Defendant's motion for more definite statement as to non-ERISA claims, DENIED as MOOT as to Defendant's argument that Cigna's ERISA claims preempt its state law claims, that Cigna fails to plead fraud with particularity, that Cigna's state law quantum meruit/unjust enrichment and money had and received claims fail as a matter of law, and DENIED as to Defendant's argument that Cigna seeks legal relief not recoverable under ERISA."

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the ultimate findings and conclusions of the Magistrate Judge are correct.

Therefore, Defendant Windhaven Surgical Center LLC's Motion to Dismiss (Dkt. 7) is GRANTED as to non-ERISA claims, DENIED as MOOT as to Defendant's argument that Cigna's ERISA claims preempt its state law claims, that Cigna fails to plead fraud with particularity, that Cigna's state law quantum meruit/unjust enrichment and money had and received claims fail as a matter of law, and DENIED as to Defendant's argument that Cigna seeks legal relief not recoverable under ERISA.

**IT IS SO ORDERED.**

**SIGNED this the 29th day of September, 2014.**

A handwritten signature in black ink, reading "Richard A. Schell". The signature is written in a cursive, flowing style. The first name "Richard" is written with a capital 'R' and a dot over the 'i'. The middle initial "A." is written with a capital 'A' and a dot. The last name "Schell" is written with a capital 'S' and a dot over the 'i'. The signature is positioned above a horizontal line.

RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE